

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

Case No. 4:16-CV-24

H.A. (Minor) by her Guardian <i>ad Litem</i> ,)	
Benjamin Anderson; BENJAMIN)	
ANDERSON, Individually,)	
)	
Plaintiff,)	
)	AMENDED ORDER
vs.)	
)	
WAL-MART STORES, INC.; and)	
WAL-MART STORES EAST, LP,)	
)	
Defendants.)	

NOW COMES the Court as this cause coming on to be heard before the undersigned Judge on the Parties' Rule 59(e) Consent Motion to Modify Minor Settlement Order of Approval, entered April 27, 2017, the Court finds the following facts:

1. H.A. is a minor who was born on 23 March 2013, and that H.A. was two (2) years of age when she incurred personal injuries at the Defendants' premises.
2. On 24 March 2014, Plaintiff Benjamin Anderson, his wife, and H.A. visited the Wal-Mart store located at 300 NC Highway 24, Morehead City, Carteret County, North Carolina, 28557.
3. While the parties were shopping, the Minor Plaintiff fell from her shopping cart and the Minor Plaintiff suffered personal injuries as a result of her fall.
4. The Plaintiffs alleged that the Defendants were negligent in either creating or allowing a dangerous condition to exist on the Defendants' premises, which the Defendants have denied.

5. The Minor Plaintiff, H.A., suffered personal injuries as a result of her fall on the Defendants' premises and as a result of the Defendants' negligence.

6. On 17 August, 2015, Plaintiff's undersigned attorney filed a Complaint in Carteret County Superior Court (15-CvS-926) on behalf of H.A.

7. Plaintiff's undersigned attorney sought appointment of a Guardian *ad Litem* for H.A., and Benjamin Anderson, H.A.'s father, was appointed as Guardian *ad Litem* on 17 August, 2015, by the Carteret County Clerk of Superior Court.

8. Defendants were served with notice of the Complaint on 10 February, 2016.

9. On 7 March, 2016, Defendants filed a Notice of Removal to remove the state court case to the United States District Court for the Eastern District of North Carolina.

10. A Mediated Settlement Conference occurred on 29 March, 2017, and the parties agreed to settle the matter for \$25,000.00 (Twenty Five Thousand Dollars).

11. The Minor Plaintiff's Attorney, The Minor Plaintiff's Guardian *ad Litem*, and the Defendants' Attorney all agree that the final settlement is fair and reasonable for the Minor Plaintiff.

CONCLUSIONS OF LAW

12. All parties, including the Minor Plaintiff, are properly represented and they are properly before the United States District Court of the Eastern District of North Carolina.

13. No questions exist as to misjoinder or non-joinder of parties.

14. This Court has jurisdiction over the subject matter and the parties to this legal action.

15. From the face of the Complaint, the Minor Plaintiff, by and through her Guardian *ad Litem*, filed suit against Wal-Mart and alleged that the Minor Plaintiff visited Wal-Mart at

Morehead City, North Carolina, on 24 May 2014, and that during the visit, the Minor Plaintiff fell from a shopping cart.

16. The Minor Plaintiff alleged, by and through her Guardian *ad Litem*, that the cotton material on the seatbelt fell apart and caused the Minor Plaintiff to fall and hit her body on the floor of the Wal-Mart.

17. The Minor Plaintiff, by and through her Guardian *ad Litem*, alleges that she sustained personal injuries from her fall on the Wal-Mart premises and she alleged that she was entitled to a monetary award for her pain and suffering, medical expenses, and emotional distress.

18. Undersigned counsel for the Plaintiff assisted the Minor Plaintiff in preparing a Complaint in the matter; assisted with the preparation of documents and producing of documents through the discovery process; prepared the Minor Plaintiff for the legal process; discussed and analyzed the strengths and weaknesses of the Minor Plaintiff's case with the Minor Plaintiff's Guardian *ad Litem*; and attended and represented the Minor Plaintiff in depositions, mediations, and other court-mandated conferences.

19. This Court finds that the Minor Plaintiff's counsel completed reasonable legal services for the Minor Plaintiff.

20. Benjamin Anderson, Guardian *ad Litem* for the Minor Plaintiff, and Minor Plaintiff's undersigned counsel believe that the settlement with Defendants was negotiated at arm's length; that the settlement is fair and reasonable; that the settlement is in the best interest of the Minor Plaintiff; and that both recommend this settlement to be approved by this Court.

ORDER OF APPROVAL

21. It is in the best interest of the Minor Plaintiff, Harper Anderson, that these matters at issue be compromised by settlement and the Court finds that such settlement as described below is fair and reasonable to the Minor Plaintiff.

22. The Court approves the settlement and between the Plaintiffs and the Defendants for a total sum of \$25,000.00 (Twenty Five Thousand and NO/100 Dollars), as set forth more fully below:

- a. The sum of \$7,164.21 paid to the minor, Harper Anderson, which is to be deposited with the Clerk of Court of the United States District Court for the Eastern District of North Carolina until the minor reaches the age of majority.
- b. The sum of \$7,164.21 to be to be issued directly to medical providers, by and through Minor Plaintiff's undersigned attorney, for the payment of outstanding obligations as set out below:
 - i. \$7,164.21 to Conduent Recovery Services
- c. The sum of \$8,333.33 to be paid to Christopher Walker for his legal services to the Minor Plaintiff with her claim.
- d. The sum of \$2,338.25 to be paid to Christopher Walker for the reimbursement of the filing fee, expert witness fee, and deposition invoices.

23. The Minor Plaintiff's undersigned counsel represents that \$ 0.00 is currently due for all actual medical expenses for the Minor Plaintiff's recovery.

24. The Minor Plaintiff's undersigned counsel also represents that the Minor Plaintiff is set to recover fully from the injuries she sustained from her fall at Wal-Mart.

25. The Minor Plaintiff's treating pediatric physician Katherine Moorehead examined the Minor Plaintiff on 3 June 2014 one week after her release from Vident Medical Center and has noted Minor Plaintiff was slowly getting better. Minor Plaintiff had a routine 15 month old check up on 23 June 2014 and no abnormalities were documented.

WHEREFORE, this Court grants the Parties' Rule 59(e) Consent Motion to Modify Minor Settlement Order of Approval through this the Court's Amended Order.

Dated this 8th day of May, 2017.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style. The first letter "L" is large and loops around. The "W" is also stylized. The signature is positioned above a horizontal line.

LOUISE W. FLANAGAN
United States District Judge